

Message Text

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ACTION EA-10

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TO SECSTATE WASHDC IMMEDIATE 3984

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INFO CSAF (JACI)

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13AF/JA

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JUSTICE FOR RISTAU, FOREIGN LITIGATION UNIT

E.O. 11652: N/A

TAGS: MILI, RP, US

SUBJECT: TARUC VS VENTO

1. ON AUGUST 18, ATTORNEY LUNA RECEIVED ORDER DATED JULY 29
DENYING MOTION FOR RECONSIDERATION. ORDER READS:

QUOTE - A CAREFUL STUDY OF THE MOTION FOR RECONSIDERATION
DATED JULY 6, 1977, THE OPPOSITION THERETO, DATED JULY 15, 1977,
AND THE ORAL ARGUMENT MADE BY THE OPPOSING COUNSEL DURING THE
HEARING OF THIS MOTION HAVE NOT ADEQUATELY CHANGED THE THINKING
OF THE COURT TO CAUSE IT TO ALTER ITS DECISION DATED JUNE 21,
1977. END QUOTE.

2. IN A RELATED DEVELOPMENT, ON AUGUST 11 JUDGE SAMSON, TO WHOM
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CASE IS ASSIGNED, ADVISED CLARK AIR BASE STAFF ATTORNEY LANSANGAN
TO TELL CAPTAINS VENTO AND TORRES (WHO HAS DEPARTED) THAT
SHE WAS GOING TO DISMISS THE CASE AGAINST THEM, THAT SHE
BELIEVED CAPTAIN VENTO'S STATEMENT AND DID NOT BELIEVE
PLAINTIFF'S WITNESS ALVOR WHOM THE JUDGE DESCRIBED AS A
CONGENITAL LIAR. JUDGE WAS APPARENTLY REFERRING TO
DISMISSAL ON THE MERITS AFTER PARTIES HAVE TESTIFIED.

3. BASED ON THIS INFORMATION, ATTORNEY LUNA SUGGESTS FILING A SECOND MOTION FOR RECONSIDERATION WHICH WOULD PRESERVE OUR POSITION ON OFFICIAL IMMUNITY FROM SUIT BUT BE PRIMARILY DIRECTED AT ALVOR'S LACK OF CREDIBILITY AND RESULTANT ABSENCE OF A PRIMA FACIE CASE. THE MOTION WOULD HAVE EFFECT OF A MOTION FOR SUMMARY JUDGMENT.

4. LUNA WOULD PREFER THIS SECOND MOTION FOR RECONSIDERATION BEFORE APPEAL. HE THINKS IT HAS A GOOD CHANCE OF SUCCESS AND ALSO NOTES THAT THE ROSSI CASE OFFERS A MUCH BETTER OPPORTUNITY TO ESTABLISH THE DOCTRINE OF BARR VA MATEO AND RELATED CASES THAN THE TARUC CASE DOES.

5. SHOULD APPEAL BE NECESSARY, LUNA IS SOMEWHAT TROUBLED BY POSSIBLE SUBSEQUENT WITHDRAWAL MENTIONED IN MR. RISTAU'S LETTER OF JULY 20 AS HE BELIEVES SUPREME COURT WILL FEEL IT IS BEING TRIFLED WITH. HE SUGGESTS GETTING APPROVAL FOR APPEAL PRIOR TO FILING. THE CLARK LEGAL OFFICE HAS BEEN REQUESTED TO MONITOR DEVELOPMENTS IN THIS CASE CLOSELY TO PROVIDE AS MUCH TIME AS POSSIBLE FOR DECISION MAKING.

6. ACTION REQUESTED: APPROVAL OF SECOND MOTION FOR RECONSIDERATION ALONG LINES SET OUT HEREIN. APPROVAL OR ALTERNATIVE INSTRUCTIONS NEEDED ASAP AND NOT LATER LIMITED OFFICIAL USE

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THAN AUGUST 22 LOCAL TIME.
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Message Attributes

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